



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER
GOVERNOR

Certified Mail: 7000 0600 0027 1155 2987

May 19, 2009

Mr. Dennis Lampson
CUPA Manager
Alpine County Environmental Health Services
75 Diamond Valley Road
Markleeville, California 96120

Dear Mr. Lampson:

The California Environmental Protection Agency (Cal/EPA) conducted a program evaluation of the Alpine County Environmental Health Services Certified Unified Program Agency (CUPA) on March 24, 2009. The evaluation was comprised of an in-office program review by the State evaluator. The evaluator completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Alpine County Environmental Health Services' program performance is unsatisfactory with improvement needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to Kareem Taylor every 90 days after the evaluation date. The first deficiency progress report is due on July 22, 2009.

Cal/EPA also noted during this evaluation that Alpine County Environmental Health Services has worked to bring about a number of local program innovations, including facilitating an Area Plan tabletop exercise. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

Mr. Dennis Lampson
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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

[Original Signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc: Sent via email:

Mr. Kevin Graves
State Water Resources Control Board
P.O. Box 944212
Sacramento, California 94244-2102

Ms. Terry Brazell
State Water Resources Control Board
P.O. Box 944212
Sacramento, California 94244-2102

Mr. Charles McLaughlin
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

Ms. Asha Arora
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, California 94710

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cc: Sent via email:

Mr. Ben Ho
Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460

Mr. Brian Abeel
California Emergency Management Agency
3650 Schriever Avenue
Mather, California 95655



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Enclosure



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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: Alpine County Health Department

Evaluation Date: March 24 and 25, 2009

EVALUATION TEAM

Cal/EPA: Kareem Taylor

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Kareem Taylor at (916) 327-9557.

	<u>Deficiency</u>	<u>Preliminary Corrective Action</u>
1	<p>The CUPA has not completed a self audit for the past three fiscal years.</p> <p>[Continued from December 2005 Evaluation]</p> <p>CCR, Title 27, Section 15280 (Cal/EPA)</p>	<p>By September 30, 2009, the CUPA will complete a fiscal year (FY) 2008/2009 self audit that includes all of the required elements. The CUPA will submit the narrative self audit to Cal/EPA.</p> <p>In subsequent FYs, the CUPA will complete a self audit of its program by September 30 of each year.</p>
2	<p>The CUPA's Annual Summary Reports from the past three FYs contain incorrect information or elements of the reports are incomplete.</p> <ul style="list-style-type: none">• The FY 2005/2006 Annual Inspection Summary Report (Report 3) is missing the total regulated businesses information.• The FY 2007/2008 Report 3 contains the percent of routine inspections with minor violations that returned to compliance (RTC) within 90 days, but not the percent of routine inspections with Class 1 or Class 2 violations that RTC within 90 days.• The FY 2007/2008 Annual Enforcement Summary Report (Report 4) contains more facilities with minor violations than the total number of routine inspections on Report 3 for both the business plan and the Aboveground	<p>By June 25, 2009, the CUPA will submit its revised FY 2007/2008 Annual Summary Reports to Cal/EPA that contains the correct information.</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

	Storage Tank program elements. The CUPA was counting the total number of violations rather than the total number of facilities with violations. CCR, Title 27, Section 15290 (Cal/EPA)	
3	The CUPA did not remit the correct CalARP surcharge to the state in FY 2007/2008. The CUPA collected \$270 from its CalARP facility, but only remitted \$120. This was an unintentional error as the CUPA's local CalARP fee of \$120 was remitted instead of the \$270 state surcharge. The correct CalARP surcharge was remitted for FY 2008/2009. CCR, Title 27, Section 15250 (Cal/EPA)	By June 25, 2009, the CUPA will remit the remaining \$150 in CalARP surcharge for FY 2007/2008 to ARB accounting.
4	The CUPA is not conducting Hazardous Waste Generator (HWG) inspections with a frequency that is consistent with its Inspection and Enforcement Plan. Specifically, the CUPA did not meet its scheduled HWG inspection frequency of one inspection every three years. The Report 3s show the following: <ul style="list-style-type: none"> • In FY 07/08, the CUPA did not perform any HWG routine inspections. • In FY 06/07, the CUPA performed 10% or 1 out of 10 HWG routine inspections. • In FY 05/06, the CUPA did not perform any HWG routine inspections. [Continued from December 2005 Evaluation] CCR, Title 27, Section 15200 (a) (3) (Cal/EPA)	By June 30, 2010 the CUPA will inspect at least one third of its HWG facilities. The CUPA is planning to hire a contractor to implement the HWG program.
5	The CUPA is not meeting the mandated inspection frequency for the business plan (BP) program of one inspection every three years. The Report 3s show the following: <ul style="list-style-type: none"> • In FY 07/08, the CUPA performed 20% or 6 out of 30 BP routine inspections. • In FY 06/07, the CUPA performed 33% or 10 out of 30 BP routine inspections. • In FY 05/06, the CUPA did not perform any BP routine inspections. [Continued from December 2005 Evaluation] CCR, Title 27, Section 15200 (a) (2) (Cal/EPA)	By June 30, 2010 the CUPA will inspect at least one third of its BP facilities.
6	The CUPA is not meeting the mandated inspection frequency for the CalARP program of one inspection every three years. The CUPA has not performed a	By June 30, 2010 the CUPA will inspect its CalARP facility.

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	<p>CalARP inspection of its 1 facility within the last three FYs.</p> <p>[Continued from December 2005 Evaluation]</p> <p>CCR, Title 27, Section 15200 (a) (2) (Cal/EPA)</p>	
7	<p>The CUPA has not received annual inventories or annual “no change” certification statements by March 1 of each year from all of its BP facilities.</p> <p>[Continued from December 2005 Evaluation]</p> <p>HSC, Chapter 6.11, Section 25404.1 (a) (2) (Cal/EPA) HSC, Chapter 6.95, Section 25503.3 (c)</p>	<p>By March 1, 2010, the CUPA will ensure that businesses submit annual inventories or annual “no change” certification statements by March 1 of each year.</p>
8	<p>CUPA is not obtaining BPs from all businesses subject to the program.</p> <p>[Continued from December 2005 Evaluation]</p> <p>HSC, Chapter 6.95, Section 25503.5 (c) (Cal/EPA)</p>	<p>By March 25, 2010, the CUPA will ensure that all businesses subject to the BP program establish and implement a BP.</p>
9	<p>The CUPA inspector is performing UST inspections without an International Code Council (ICC) certification.</p> <p>CCR, Title 23, Section 2715 (j) (Cal/EPA)</p>	<p>By July 25, 2009, the CUPA will hire a contractor that is ICC certified to perform UST inspections.</p>
10	<p>In some cases, the CUPA is not following-up and/or documenting RTC for businesses cited for violations in their inspection reports.</p> <p>[Continued from December 2005 Evaluation]</p> <p>HSC, Chapter 6.11, Section 25404.1.2 (c) (Cal/EPA) CCR, Title 27, Section 15200 (a) CCR, Title 27, Section 15185 (a) and (c)</p>	<p>Immediately, the CUPA will follow-up with businesses cited for violations and document RTC actions. The CUPA may include the disposition of all previously cited violations (corrected or not) in the reinspection reports.</p> <p>Along with the CUPA’s first progress report, the CUPA will submit 2 copies of recent inspection reports along with documentation of RTC to Cal/EPA.</p>
11	<p>The CUPA does not have a CalARP dispute resolution procedure.</p> <p>[Continued from December 2005 Evaluation]</p> <p>CCR, Title 19, Section 2780.1 (CalEPA)</p>	<p>By June 25, 2009, the CUPA shall submit a CalARP dispute resolution procedure to Cal/EPA.</p>
12	<p>The CUPA does not have a procedure for disclosing confidential information to physician where the physician certifies in writing to the administering agency that the information is necessary for the medical treatment of the physician's patient.</p> <p>[Continued from December 2005 Evaluation]</p>	<p>By June 25, 2009, the CUPA shall submit its confidential information procedure to Cal/EPA that includes a physician disclosure clause.</p>

Certified Unified Program Agency (CUPA)
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	HSC, Chapter 6.95, Section 25511 (d) (CalEPA)	
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CUPA Representative

Dennis Lampson

(Print Name)

Original Signed

(Signature)

Evaluation Team Leader

Kareem Taylor

(Print Name)

Original Signed

(Signature)

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA are implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.

- 1. Observation:** The CUPA does not have adequate funding to effectively implement the Unified Program. The CUPA does not receive state rural reimbursement funding. The local fees it collects (\$5285) from its small business base is not sufficient to fund the program. CUPA management intends to propose a fee increase of about 20% to the county board of supervisors. A fee increase would lessen the financial impact the CUPA has on the general fund, but will not be sufficient to support the Unified Program.

Recommendation: Cal/EPA recommends that the Alpine County Health Department CUPA explore joining with Mono County Health and Human Services CUPA so that both regions may be regulated effectively.

- 2. Observation:** The CUPA generally classifies the nonsubmittal of a BP as minor. This is counter to the suggestions of the violation classification guidance document.

Recommendation: Cal/EPA recommends that the CUPA classify failure to submit and/or implement a BP for businesses with solely low volume, low hazard materials as class 2. In addition, it is recommended that the CUPA classify failure to submit or implement a business plan after notice and failure to submit or implement a business plan at high volume, high risk facilities as class 1. Refer to the violation classification guidance for more information.

- 3. Observation:** The CUPA does not classify violations as Class 1, Class 2, or minor in its inspection reports.

Recommendation: Cal/EPA recommends that the CUPA begin classifying violations as Class 1, Class 2, or minor on its inspection reports. The CUPA may modify its inspection reports to include checkbox columns where classifications may be recorded by inspectors. Documenting the violation classifications in this way will allow for better efficiency when violation data is entered into the CUPA's data management system.

- 4. Observation:** The CUPA does not document owner/operator consent to inspect on inspection reports.

Recommendation: Cal/EPA recommends that the CUPA modify its inspection reports to include a section where an owner/operator may sign their consent to the inspection. With the new inspection format, an inspector may request that an owner/operator sign their consent to the inspection before the inspection is initiated. Signed consent on the inspection report is important because it strengthens any potential enforcement case against a noncompliant facility. This recommendation is based on the "Inspection Report Writing Guidance for UPA's". This document can be found at www.calepa.ca.gov/CUPA/Documents/2005/InspectionRpt.pdf.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The CUPA facilitated an Area Plan tabletop exercise in June 25, 2008. The exercise involved a simulated chlorine gas release where CUPA staff were required to implement an Area Plan to contain the environmental impact from the release. There were a total of 25 participants.